

REMARKS

Reconsideration of this application is respectfully requested.

A Final Office Action was mailed in this application on May 21, 2009. A Notice of Appeal was filed in this application on November 23, 2009, along with a petition for a three month extension of time to respond to the outstanding Final Office Action.

Petition is now hereby made for a five month extension of time from the January 23, 2010 due date for filing an Appeal Brief in this application to respond to the outstanding Final Office Action of May 21, 2009 by filing a Request for Continued Examination, along with this Amendment After Final Rejection.

Although the fees for the extension of time and the Request for Continued Examination are being submitted with this Amendment, the Commissioner is hereby authorized to charge any fees that should have been filed at this time to our Deposit Account No. 14-1140.

Claims 19-71 are pending in the application. Upon entry of this Amendment, claims 19 – 71 will be cancelled, and new claims 72 – 120 will be added.

In the outstanding Final Office Action of May 21, 2009, the Examiner (1) objected to claims 20, 21, 35, 36, 42, 54, 64, and 68 under 37 CFR §1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim, (2) rejected claims 37, 40, 55, 59, 61 and 68 under 35 U.S.C. §112, second paragraph, as being indefinite, and (3) rejected claims 38, 39, 66 and 67 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Given the cancellation by this Amendment of pending claims 19 – 71 and the presentation of new claims 72 – 120, the foregoing claim objections and rejections under §112 are now moot, and thus, should be withdrawn.

In the outstanding Final Office Action, the Examiner also rejected, as being unpatentable under 35 U.S.C. §103(a), claims 19, 24 – 26, 29, 31 – 39, 41 and 42 – 71 over Kuyava (WO 01/67996 A2) and claim 40 over Kuyava in view of Timm *et al.* (USP 4,517,967).

Here again, given the cancellation by this Amendment of pending claims 19 – 71 and the presentation of new claims 72 – 120, the foregoing claim rejections under §103(a) are now moot, and thus, should be withdrawn. Nevertheless, Applicant makes the following comments with regard to the foregoing cited references and the newly presented claims.

Newly presented independent claims 72, 77, 83 and 86 recite that the base material is comprised of a layer of polyurethane and a layer of silicone. Applicant contends that this combination of materials has advantageous effects and is not disclosed in the cited Kuyava or Timm references as a base material for making self-supporting the implant provided with a property improving means. Applicant also contends that the polyurethane provides a resistance to wear due to bending which, in combination with the properties of silicone, is unexpectedly good. Applicant further contends that this advantageous effect is further enhanced by a property improving means in the form of a barrier coating, preferably comprising a polyparaxylylene polymer, polytetrafluoroethylene, or a biocompatible metal coating.

FORSELL, Peter
Application No.: 10/522,540

In view of the foregoing, Applicant believes that all of the claims pending in the application, *i.e.*, claims 72 – 120, are now in condition for allowance, which action is earnestly solicited.

If any issues remain in this application, the Examiner is urged to contact the undersigned at the telephone number listed below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Robert A. Molan/
Robert A. Molan
Reg. No. 29,834

RAM:prb
901 North Glebe Road, 11th Floor
Arlington, VA 22203
Telephone: (703) 816-4000
Facsimile: (703) 816-4100